

APPEAL NO. 172755
FILED JANUARY 9, 2018

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on October 10, 2017, in (city), Texas, with (hearing officer) presiding as the administrative law judge (ALJ). The ALJ resolved the disputed issues by deciding that: (1) the compensable injury extends to post-traumatic stress disorder (PTSD); (2) the respondent (claimant) reached maximum medical improvement (MMI) on April 20, 2017; and (3) the claimant's impairment rating (IR) is 10%. The appellant (self-insured) appeals the ALJ's determinations of the MMI date and the IR as well as the ALJ's determination that the compensable injury extends to PTSD. The claimant responded, urging affirmance of the disputed determinations of the extent of the compensable injury, MMI, and IR.

DECISION

Affirmed in part and reversed and rendered in part.

The parties stipulated, in part, that: (1) the claimant sustained a compensable injury on (date of injury), in the form of a left shoulder acromioclavicular joint, concussion, scalp laceration, cervical strain, left wrist sprain, and a left ankle/leg strain; (2) the first designated doctor selected by the Texas Department of Insurance, Division of Workers' Compensation (Division),(Dr. Y), was appointed to determine MMI, IR, extent of injury, and return to work; (3) the second Division-selected designated doctor, (Dr. K), was appointed to determine MMI and IR; and (4) the date of statutory MMI is September 28, 2017. The claimant testified that she was injured when she was hit by a motor vehicle while walking across a street.

EXTENT OF INJURY

The ALJ's determination that the compensable injury of (date of injury), extends to PTSD is supported by sufficient evidence and is affirmed.

MMI

The ALJ's determination that the claimant reached MMI on April 20, 2017, is supported by sufficient evidence and is affirmed.

IR

Section 408.125(c) provides that the report of the designated doctor shall have presumptive weight, and the Division shall base the IR on that report unless the

preponderance of the other medical evidence is to the contrary, and that, if the preponderance of the medical evidence contradicts the IR contained in the report of the designated doctor chosen by the Division, the Division shall adopt the IR of one of the other doctors. 28 TEX. ADMIN. CODE § 130.1(c)(3) (Rule 130.1(c)(3)) provides that the assignment of an IR for the current compensable injury shall be based on the injured employee's condition as of the MMI date considering the medical record and the certifying examination.

The record indicates that Dr. K examined the claimant on April 22, 2017, and certified that the claimant reached MMI on April 20, 2017, and assessed a 10% IR using the Guides to the Evaluation of Permanent Impairment, fourth edition (1st, 2nd, 3rd, or 4th printing, including corrections and changes as issued by the American Medical Association prior to May 16, 2000) (AMA Guides). Dr. K assessed 0% impairment for the following conditions: concussion, scalp laceration, left wrist sprain, cervical strain, and left ankle/leg strain. Using range of motion measurements, Dr. K assessed 7% upper extremity impairment for the claimant's left shoulder. Using Table 3 on page 3/20 of the AMA Guides, Dr. K converted 7% upper extremity impairment to 4% whole person impairment for the left shoulder. Dr. K assessed 7% whole person impairment for PTSD. In his attached worksheet, Dr. K stated he then combined 7% and 4% for a result of 10%.

The Appeals Panel has previously stated that, where the certifying doctor's report provides the component parts of the rating that are to be combined and the act of combining those numbers is a mathematical correction which does not involve medical judgment or discretion, the Appeals Panel can recalculate the correct IR from the figures provided in the certifying doctor's report and render a new decision as to the correct IR. See Appeals Panel Decision (APD) 171766, decided September 7, 2017; APD 172488, decided December 18, 2017; APD 152464, decided February 17, 2016; APD 121194, decided September 6, 2012; APD 041413, decided July 30, 2004; APD 100111, decided March 22, 2010; and APD 101949, decided February 22, 2011. Under the facts of this case, the certifying doctor's assigned IR can be mathematically corrected based on the impairment assessed for the PTSD and left shoulder.

Combining 7% impairment for PTSD with 4% impairment for the left shoulder using the combined values chart on page 322 of the AMA Guides results in 11% impairment for the compensable injury rather than the 10% impairment contained on the Report of Medical Evaluation (DWC-69) and in Dr. K's narrative report.

The ALJ found that the preponderance of the other medical evidence is not contrary to Dr. K's assigned IR, and after a mathematical correction that finding is supported by the evidence. Accordingly, we reverse the ALJ's determination that the

claimant's IR is 10% and we render a new decision that the claimant's IR is 11%, as mathematically corrected.

SUMMARY

We affirm the ALJ's determination that the compensable injury of (date of injury), extends to PTSD.

We affirm the ALJ's determination that the claimant reached MMI on April 20, 2017.

We reverse the ALJ's determination that the claimant's IR is 10% and we render a new decision that the claimant's IR is 11%, as mathematically corrected.

The true corporate name of the insurance carrier is **STATE OFFICE OF RISK MANAGEMENT (a self-insured governmental entity)** and the name and address of its registered agent for service of process is

For service in person the address is:

**STEPHEN S. VOLLBRECHT, EXECUTIVE DIRECTOR
300 W. 15TH STREET
WILLIAM P. CLEMENTS, JR. STATE OFFICE BUILDING, 6TH FLOOR
AUSTIN, TEXAS 78701.**

For service by mail the address is:

**STEPHEN S. VOLLBRECHT, EXECUTIVE DIRECTOR
P.O. BOX 13777
AUSTIN, TEXAS 78711-3777.**

Margaret L. Turner
Appeals Judge

CONCUR:

K. Eugene Kraft
Appeals Judge

Carisa Space-Beam
Appeals Judge